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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/728,141

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Marraffa Andrew

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09/08/2005

Eugene E. Renz, Jr., P.C.
205 North Monroe Street
Post Office Box 2056
Media, PA 19063-9056

EXAMINER

DOOLEY, JAMES C

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/728,141

Applicant(s)

ANDREW ET AL.

Examiner

James C. Dooley

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Use of the word "comprising" is considered claim language and inappropriate for the abstract.

2. The disclosure is objected to because of the following informalities:

Term (MFR-1) is used first in the description of the drawings and again multiple times thereafter, but the meaning is not clarified until page 10. Meanings should be clarified before acronyms are used.

Paragraph 2. Sentence "Each end frame... tiers" requires correction.

Paragraph 3 and later; "inverted C-shape" is not clear. In the opinion of the examiner Applicant clearly described configuration of rail and use of the word "inverted" is not necessary.

Paragraph 3 "Diagonal braces 5 and 6..." 6 is also referred to as "angular vertical member"

Paragraph 5. Figs. 5-9 description actually refers only to Figs. 5-8

Paragraph 6. It is not clear how the design obviates need of corner brackets.
Also from drawings it appears the end rails ARE secured to the frames.

Paragraph 7: "holes 17", 17 appears to be referencing a bar.

Paragraph 17: "window openings 31a" should be 31c

Paragraph 18: 31e, 31f not shown. "holes 39" 39 references batteries

Paragraph 19: item "holes 47" appears to reference frame

Paragraph 20: "a base plate 54" and "a formed angle 54". Also, 54a not shown.

The overall structure of the description of the drawings is confusing. Paragraphs in the specification should be in the same order as the ordering of the drawings.
Applicant also must clarify the figure to which reference is being made.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 3 uses the term "seismic beams". This is not seen as a term well known to one with ordinary skill in the art. If applicant wishes to retain this term a definition of seismic beams must be given in the specification.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 4 recites the limitation "said anchor" in the last line. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 is rejected under 35 U.S.C. 102(b) as being Anticipated by Walter et. al.

(US patent number 6279756). Walter et. al. teaches an equipment rack featuring;

- a. A pair of facing end frames (12a,12b)
- b. A base plate for mounting each end frame to a support surface (16)
- c. Means connecting the end frames including elongated support rails (14)

- d. Gusset means connected to the end frames (20a, 20b) which lie within the footprint of the end frames

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walter et. al. Walter et. al. teaches all of the features of claim, but does not show brace holes on the gusset means. In lines 22-29 of column 2 Walter discloses that considerations were made about the use of brace holes and bolts to fix the gusset means to the end frames. As it is disclosed in the prior art it would be obvious with to one with ordinary skill in the art to modify the design of Walter to included brace holes on the gusset. The motivation is a design choice.

10. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hung (US patent number 6,478,166). Hung teaches an equipment rack featuring:

- e. End frames (30) spaced apart by a plurality of channel members (50)
- f. A shelf (70)
- g. Each end frame formed of a single sheet of material
- h. A plurality of openings in the web of each end frame
- i. A generally rectangular base having holes

Hung does not teach multiple shelves spanning the support members or a plurality of vertically spaced channel support members. From the embodiment shown in figure 5 it would be obvious to one with ordinary skill in the art to fix a shelf to the channel members. The reason being that the channel support member is of similar configuration to the support bracket shown. Also, it is obvious that the design of Hung includes space for additional shelves and support members. Accordingly, it would be obvious to one with ordinary skill in the art to modify the design of Hung by fixing the shelves to support members and also to include a plurality shelves. The motivation would be to increase usable storage space.

11. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hung in view of Heimer. Hung teaches a rack as described which would be obvious to modify for the purposes of storing batteries. Hung does not teach tabs and slots for fixing the frames to the base. Heimer teaches a batter rack featuring shelving which fixes to the frames by means of tabs. It is well known in the art of sheet metal design to utilize tabs and slots. Accordingly, it would be obvious to one with ordinary skill in the art to further modify the design of Hung to included tabs and slots at any location where bolts could be used. The motivation being to reduce the necessary number of parts thereby by simplifying manufacture and assembly.

12. Claim 3 is allowed. Claim three includes the unique features of the rack, which are not mentioned in other claims. Namely, specifically including batteries as a


component of the rack. Also utilizing the web of the end frames as a guide for the batteries.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C. Dooley whose telephone number is 571-2721679. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Richard Chilcot
Supervisory Patent Examiner
Technology Center

